

WORKGROUP #3

Committee on Improving Judicial Oversight and Processing of Probate Court Matters
May 19, 2011 v4

Form 8. CONSERVATOR'S ACCOUNT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

☐ a Minor
☐ an Adult

NO. «CaseNo.»

CONSERVATOR'S ACCOUNT

☐ with BUDGET
☐ Amendment

(Assigned to the Honorable
«Judicial Officer»)

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- ☐ SCHEDULE 1: Statement of Receipts and Disbursements
- ☐ SCHEDULE 2: Statement of Net Assets & Reconciliation
- ☐ RECENT BANK STATEMENT for each bank account
- ☐ Any Supporting Detail required for SCHEDULE 1
- ☐ Any Supporting Detail required for SCHEDULE 2
- ☐ TRANSACTION LOG, detailing all financial transaction during the reporting period, reported by category.

1. Identify any assets that will be liquidated prior to the next Conservator's Account:

Form 8. Continued

WARNING TO RECIPIENT OF THIS REPORT: THE CONSERVATOR'S ESTIMATES AND ANALYSIS OF AVAILABLE ASSETS, LIABILITIES, ANNUAL EXPENDITURES, ANNUAL INCOME AND PROJECTED LIFESPAN OF THE PROTECTED PERSON ARE A GOOD FAITH ESTIMATE BASED UPON THE INFORMATION THAT IS REASONABLY AVAILABLE TO THE CONSERVATOR CONCERNING THE SUBJECT PERSON. THIS INFORMATION IS PROVIDED FOR THE LIMITED PURPOSE OF ASSISTING THE COURT IN ITS OVERSIGHT OF THIS CONSERVATORSHIP. OTHER PERSONS SHOULD NOT RELY ON THIS INFORMATION BUT SHOULD REACH THEIR OWN CONCLUSIONS.

2. What is the Conservator's estimate of the projected remaining lifespan of the subject person?

_____ years

As required by Rule of Probate Procedure 30.3, disclose and explain whether the Conservatorship is Sustainable for the Projected Lifespan of the Protected Person, including fully disclosing any assumptions. Sustainability is defined to occur when the following equation is true:

$$\frac{(\text{«Available Assets»} - \text{«Liabilities of the Estate»})}{(\text{«Annual Expenditures»} - \text{«Annual Income»})} \geq \text{«Projected Lifespan»}$$

-OR-

$$\frac{(\text{SCHEDULE 2, Column B, Line 19})}{(\text{SCHEDULE 1, Column C, Line 27})} \geq \text{«Projected Lifespan»}$$

3. Is this Conservatorship sustainable for the projected lifespan of the subject person:

☐ True, Sustainable

☐ False, NOT Sustainable

4. If the Conservatorship is NOT sustainable, describe the management plan for the Conservatorship, since the Assets of the Conservatorship are insufficient to meet the Projected Lifespan of the Protected Person:

Form 8. Continued

CONSERVATOR'S ACKNOWLEDGEMENT

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 8. Continued

INSTRUCTIONS FOR FORM 8: CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 8 to prepare and report the annual conservator's account, concerning the administration of the estate. Begin using Form 8 with the second conservator's account, and continue using Form 8 until the final account.

Use Form 7 to prepare and report the first conservator's account, and use Form 9 to prepare and report the final conservator's account.

If the conservator is required to provide a budget for the conservatorship, report the budget on the same form as the conservator's account.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a reporting period may cover a different period of time, either longer or shorter than a year, if ordered by the Court, depending on the circumstances of each individual case.

By court rule, the first conservator's account covers a period that ends nine months after the issuance of the Letters as Conservator, and the first conservator's account is due 90 days later, which means the first conservator's account is due on the first anniversary of the conservator's appointment. Each successive year, the conservator's report is due on the subsequent anniversary of the appointment. See Section 14-5419, Arizona Revised Statutes and Rule 30, Arizona Rules of Probate Procedure.

However, please review the Court's orders, which may establish a different end date or different due date for the conservator's account, just as the Court may establish other special requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

General Instructions:

All references in these instructions to "you" refer to the conservator.

Form 8 requires attachments, including but not limited to SCHEDULE 1: Statement of Receipts and Disbursements, and SCHEDULE 2: Statement of Net Assets & Reconciliation. You should complete both required schedules prior to completing Form 8, because Form 8 references

information that is computed on the required schedules. In addition to the required schedules, certain answers require supplemental detail, which is also a required attachment to Form 8. As to any supplemental detail, identify the form or schedule, line and, if appropriate, column that is detailed.

Specific Instructions:

SCHEDULE 1 (Form 8): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that are divided into three basic categories: Column A relates to the past, meaning information that was previously reported; Columns B through E relate to the present, meaning information that you are reporting for the year just ended; and Columns F and G describe the future, the year that is just beginning.

You may be required to use all of the columns in SCHEDULE 1 or just some of the columns, depending if the Court requires a budget.

Column A: Complete Column A to present information from the last conservator's account; this information is presented for comparison purposes only, and can be copied directly from Column C of last year's SCHEDULE 1, including the starting and ending dates. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you still include your predecessor's information in Column A, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B: If you were required to file a budget for the year just ended, enter the budget for the year just ended in Column B. Please note: if the budget was amended during the year, enter the final amended budget in Column B and describe the amendments as supporting detail to SCHEDULE 1.

Column C: Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Columns D & E: If you are required to complete Columns B and C, then compute

Columns D and E, which show the dollar amount and percent of deviation, respectively, between the budget and actual results. The formulas to calculate the deviation are shown in the headers to Columns D and E.

Column F: Complete Column F if the court requires a budget for the year that is just beginning. This is where you present a budget of receipts and disbursements for the coming year.

Column G: Finally, if you are required to complete both Columns C and F, then compute Column G to show the dollar amount for changes to the proposed budget as compared to last year's actual results. The formula to calculate the change is shown in the header to Column G.

Line Instructions:

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1: Enter the start date for each period.

For example, if a conservator files an account and budget that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Column A will have a start date of July 1, 2010,
- Columns B and C will have a start date July 1, 2011, and
- Column F will have a start date of July 1, 2012.

Line 2: Enter the end date for each period. *Using the preceding example, the end date is June 30 one year later than the start date.*

CAUTION: transactions are reported on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis: you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid in a future reporting period.

CAUTION: Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Line 3: Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, Pension Benefits, Social Security Disability, Supplemental Security

Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4: Enter all income that is received from annuities, structured settlements or trust income that is not already included in Line 3.

Line 5: Enter all wages and earned income of the protected person that is not included in Lines 3 or 4.

Line 6: Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in Lines 3, 4 or 5.

Line 7: Enter any other receipts that are not included in Lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9: Enter the amount included in Line 8 that came from selling or liquidating an asset or from incurring a new liability.

For example, if you receive a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on Line 7 and enter the amount of the principal received on Line 9.

For example, if you receive the proceeds from an installment sale over a period of years, and this year you receive interest on the unpaid balance plus a payment on the balance due, enter the total payment received this year on Line 7 and enter the principal portion of the receipts on Line 9.

For example, if you sell an asset, such as a residence, enter the net amount received on Line 7 and enter the same amount on Line 9.

For example, if the conservatorship borrows money to pay the bills of the protected person, enter the amount of the new loan on Lines 7 and 9 and include as a liability on SCHEDULE 2.

Line 10: Subtract Line 9 from the Total Receipts on Line 8.

Line 11: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. For the limited purpose of

reporting a disbursement on Line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.

For example: enter the recurring fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments.

Line 12: Enter all of the medical payments for the protected person that are not included on Line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 13: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report on SCHEDULE 1 how the protected person expended these funds.

Line 14: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this is reported on Line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate expenditure category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on Line 18 when paid, NOT Line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on Line 14.

Line 15: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16: Report other disbursements that are made for the protected person but not included on another line on SCHEDULE 1, such as

disbursements that are made for a dependent of the protected person. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on Line 16, mortgage payments on Line 11, and list the mortgage as liability on SCHEDULE 2. (see Line 24 where this down-payment is also entered)

For example, if the Court authorizes the purchase of an annuity or the investment in marketable securities, such as a mutual fund or publicly traded stocks, enter the amount invested on Line 16 (see Line 24 where this purchase is also reported).

Line 17: Enter the sum of Lines 11 through 16.

Line 18: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges, such as mileage, filing fees, and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 19: Enter the Fiduciary's Attorney Fees and Costs.

Line 20: Enter the Protected Person's Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem.

Line 21: Report other disbursements that are a cost of administration of the conservatorship but NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditures.

Line 22: Enter the sum of Lines 18 through 21.

Line 23: Add Lines 17 and 22.

Line 24: Enter the amount that is included in Line 23 that reduced the principal balance of a debt or was expended to acquire an estate asset.

Line 25: Subtract Line 24 from the Total Disbursements on Line 23.

Line 26: Enter Line 8 minus Line 23. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall.

Line 27: Enter Line 10 minus Line 25. If the amount is positive, this is the amount by which income exceeds expenses. If the amount is negative, this is the amount by which expenses exceed the income of the conservatorship.

SCHEDULE 2: Statement of Net Assets & Reconciliation

Section 1: The first section of SCHEDULE 2 includes the previous report of net assets for comparison purposes with an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A: Complete Column A to display information from the last report of net assets; this information is presented for comparison purposes only, and can be copied directly from Column B of last year's SCHEDULE 2, including the statement date. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you will still include your predecessor's information, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B: Complete Column B to provide an update about the net assets of the conservatorship for the year just ended.

Columns C, D and E: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1: Enter the date of each report of net assets. Column A is the end date of the prior account (this is found on SCHEDULE 1, Column A, Line 2), and Column B is the end date of your current conservator's account (this is found on SCHEDULE 1, Column C, Line 2).

CAUTION: When filing your original inventory, you were required to provide a valuation of all the property, and some assets are easy to value, like bank accounts, but some assets are difficult to value, like real estate, and may require the services of a professional appraiser. For this reason, the inventory that is reported after your appointment is more formal and must meet this standard, including filing an amendment if an error or omission is discovered. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions, and you are not required

to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported.

CAUTION: Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

CAUTION: Report the value of all general assets on Lines 2 through 8, without deducting the lien or mortgage. The debt is separately reported on Line 17.

Line 2: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots.

Line 3: Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, airplane or recreational vehicle.

Line 4: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publically traded corporation on Line 4.

Line 5: Enter the value of household items and personal effects that are included within the estate, which commonly includes the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included on Line 8.

Line 6: Enter the value of stocks, bonds, mutual funds, excluding tax deferred assets.

Line 7: Enter the value of tax deferred assets, such as IRA and 401(K) accounts. Include all tax deferred assets, including tax deferred cash accounts and certificates of deposit.

Line 8: Enter all other general assets, excluding cash and regular bank accounts, and excluding tax deferred assets. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9: Enter the sum of Lines 2 through 8.

Line 10: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, excluding tax deferred assets that are listed on Line 7.

Line 11: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12: Enter the amount of currency that you have on behalf of the estate. Typically, this is zero. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13: Enter the value of other money denominated assets. These assets are functionally equivalent to money in a bank account and do not change in value, except by receipt of a dividend or interest.

Line 14: Enter the sum of Lines 10 through 13.

Line 15: Add Lines 9 and 14.

Line 16: Enter the amount of any and all bills and payables of the conservatorship that are more than thirty days since presented to you. Include all fiduciary fees and costs that are incurred but unpaid as of the date of the report of net assets. Attach a detailed list.

Line 17: Enter the value of all other liabilities, such as notes, mortgages, credit cards and personal loans.

Line 18: Add Lines 16 and 17.

Line 19: Enter Line 15 minus Line 18. This is the value of the net assets, as of the date of valuation.

Section 2: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2.

Line 20: Enter starting Cash Balance from Column A, Line 14.

Line 21: Enter Total Receipts from SCHEDULE 1, Column C, Line 8.

Line 22: Add Lines 20 and 21.

Line 23: Enter Total Disbursements from SCHEDULE 1, Column C, Line 23.

Line 24: Calculate Ending Cash Balance by subtracting Line 23 from Line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, Line 14.

FORM 8: Conservator's Account: